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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,381	01/15/2004	Stephen Wayne Tefft	121637-3/11944 (21635-009)	5431
31450	7590	05/25/2005	EXAMINER	
MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166			BAREFORD, KATHERINE A	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/758,381	Applicant(s) TEFFT ET AL.	
	Examiner Katherine A. Bareford	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 12-25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: as to applicant's arguments at page 6 through page 10, second paragraph, these arguments substantially repeat the arguments of pages 8-13 of applicant's March 15, 2005 amendments. As such, these arguments have been reviewed, however the rejections are maintained for the reasons given in the Final Rejection, noting especially the responses to the arguments of March 15, 2005 in paragraph 9 of the Final Rejection, starting at page 7 of the Final Rejection. As to applicant's further arguments, starting at page 10 of the May 16, 2005 amendment, as to the arguments given in the last two paragraphs on page 10 and the first full paragraph on page 11, it remains the Examiner's position that the combination of references provides the suggestion to perform the measuring and set-point controlling of all claimed feature. This is fully discussed at pages 7-8 of the Final Rejection. As to Moore controlling parameters related to inputs of the deposition device, the Examiner notes that Moore refers to controlling flow rates of gases to the spray gun, etc. and that the controller may monitor the process using sensors, clearly providing measuring and controlling of parameters. As to Knight Article, as discussed in the Final Rejection, Knight Article specifically teaches known variables that affect the coating process. While Knight Article may hold some known parameters fixed for a later described testing process, that does not invalidate the previous teaching of known variables. While applicant has argued various individual features of Moore and Knight Article, the Examiner points out that the rejection is the combination of the two references, and what one of ordinary skill of the art would understand to be obvious from the combination of the two references. As to the page 11 arguments as to claims 13-14, the Examiner notes that paragraph [0034] of Moore teaches monitoring the process using sensors and then performs adjustments based on fluctuations in coating process parameters, etc. To find the fluctuations in the parameters by monitoring, the parameters clearly have to be measured. As to the page 11 arguments as to claim 15, the Examiner notes that in the Final Rejection, at page 9, it was noted that the components were taught by Knight Article at page 159. Also note the description of Knight Article in the Final Rejection at page 4. As to the page 11 arguments as to claims 16-17, the suggestion of providing the instrumentation array and other features is discussed at pages 9-10 of the Final Rejection. As to the specific teaching, the Examiner notes that it can be in the general knowledge of one of ordinary skill in the art as to what would be required by the combination of the references. As to the page 11, second to last paragraph, arguments the Examiner notes that as discussed above, Knight Article specifically teaches known variables that affect the coating process. While Knight Article may hold some known parameters fixed for a later described testing process, that does not invalidate the previous teaching of known variables. As to the page 11-12 paragraph, the Examiner notes that the comparison to a D-gun or uncontrolled system is not comparable to Moore in view of Knight Article; or to the primary reference to Moore alone as Moore is concerned with a controlled HVOF system. As to the discussion of page 12 with regard to claims 18 and 25, it is the Examiner's position that Nakagawa is clearly relevant, analogous art. Moore and Knight Article are concerned with HVOF (high velocity oxy fuel) systems. Nakagawa is concerned with high speed combustion gas flame spraying (see column 1, lines 5-10). This overlaps exactly with what is desired by HVOF systems. Nakagawa teaches mixing fuel and oxidizer to form a deposition gas flow (see column 6, lines 5-20), mixes a powder into the deposition gas (column 3, lines 30-60) and projects the mixture therefrom (column 3, lines 30-65 and figure 1). Thus, these devices are equivalents to the extent required..


KATHERINE BAREFORD
PRIMARY EXAMINER